

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Christopher Kulish, attorney of record, on February 11, 2010.

The application has been amended as follows:

Claim 1 (currently amended): A method of conducting an online auction between a controlling party and at least two competing participants, the method conducted within a computer network comprised of at least one controlling party computer, an administrator computer, and a participant computer associated with each of the at least two competing participants, the method comprising:

(a) setting, using an administrator computer, a reserve price for the online auction;

(b) conducting, using the administrator computer, the online auction between the at least two competing parties;

(c) determining, using the administrator computer, whether a predetermined time trigger has been reached;

(d) if response to a determination that the reserve price has not been reached when the predetermined time trigger has been reached, determining, using the administrator computer, whether the controlling party has selected to enter a reserve

price negotiation phase, and revising the reserve price for that reserve price negotiation phase; and

(e) accordingly, extending the online auction, using the administrator computer, into a reserve price negotiation phase based on the revised reserve price,

wherein the auction involves the award of a supply contract to a supplier selected from a panel of predetermined suppliers which each have a base supply contract with the buyer, and the computer network over which the online auction is carried out comprises at least one buyer computer, an administrator computer, and at least two supplier computers, the method including the steps of:

establishing key parameters for a bill of materials (BOM) to be submitted by the administrator computer to the at least two supplier computers;

establishing a rating for each supplier of the panel of predetermined suppliers related to said key parameters;

receiving offers during the auction from the supplier computer of suppliers;

applying the respective ratings to offers received by the administrator computer from the supplier computers to adjust that offer prior to comparison of that offer with any other offer.

wherein each supplier is provided with a current bid to win (CBTW) in respect of the supply contract, the CBTW calculated by said administrator computer to dynamically indicate to a supplier an offer that that particular supplier must submit to remain competitive in the auction, and

wherein the CBTW for a supplier is calculated in accordance with the formula:

$$\text{CBTW}_{xm} = \text{FB}_{n-1} - (\text{MD} / \text{SF}_x)$$

where x indicates a particular supplier X; m indicates that particular supplier's bid number; n indicates the overall bid number (i.e. 1st bid: n=1; 2nd bid: n=2; etc); FB indicates a factored bid for said particular supplier; MD indicates a set minimum bid decrement; and SF is the supplier factor set in accordance with said supplier rating.

Claim 11 (cancelled).

Claim 12 (currently amended): The method of claim 44 1, wherein the BOM includes a time period for submissions of offers by said suppliers, this time period being extendable to enable submission of an improved final offer from at least some of the supplier computers from which offers were received.

Claim 14 (cancelled).

Claim 15 (cancelled).

Claim 16 (currently amended): The method of claim 45 1, wherein the factored bid is calculated in accordance with the formula:

$$\text{FB}_n = \text{SB}_x + (\text{MD} / \text{SF}_x) - \text{MD}$$

where SB is a submitted bid.

Claim 17 (currently amended): The method of claim 44 1, including the step of comparing the revised reserve price with offers previously received during the auction, to which offers said rating has been applied, before the reserve price negotiation phase is commenced.

Claim 18 (currently amended): The method of claim 45 1, including the step of calculating, for each supplier, a CBTW based on a measure of this revised reserve price to which a respective supplier rating has been applied.

Claim 19 (currently amended): A system for conducting an online auction between a controlling party and at least two competing participants, comprising:

setting means for setting a reserve price for the auction;

comparison means for comparing a measure of each offer received during the auction from said at least two competing participants;

first determining means for determining whether a predetermined time trigger has been reached;

second determining means for determining, if responsive to a determination that the reserve price is not reached at that time, whether the controlling party has selected to enter a reserve price negotiation phase, the setting means responsive to said second determining means to revise the reserve price for that reserve price negotiation phase; and

means, responsive to said second determining means, for allowing extension of the auction into a reserve price negotiation phase based on the revised reserve price; and

wherein the auction involves the award of a supply contract to a supplier selected from a panel of predetermined suppliers which each have a base supply contract with the buyer, and the computer network over which the online auction is carried out comprising at least one buyer computer, an administrator computer, and at least two supplier computers, further comprising:

establishing means for establishing key parameters for a bill of materials (BOM) to be submitted by the administrator computer to the at least two supplier computers;

rating means for establishing a rating for each supplier of the panel of predetermined suppliers related to said key parameters;

receiving means for receiving offers during the auction from the supplier computer of suppliers;

applying means for applying the respective ratings to offers received by the administrator computer from the supplier computers to adjust that offer prior to comparison of that offer with any other offer.

wherein each supplier is provided with a current bid to win (CBTW) in respect of the supply contract, the CBTW calculated by said administrator computer to dynamically indicate to a supplier an offer that that particular supplier must submit to remain competitive in the auction, and

wherein the CBTW for a supplier is calculated in accordance with the formula:

$$\text{CBTW}_{xm} = \text{FB}_{n-1} - (\text{MD} / \text{SF}_x)$$

where x indicates a particular supplier X; m indicates that particular supplier's bid number; n indicates the overall bid number (i.e. 1st bid: n=1; 2nd bid: n=2; etc); FB indicates a factored bid for said particular supplier; MD indicates a set minimum bid decrement; and SF is the supplier factor set in accordance with said supplier rating.

Claim 24 (currently amended): The method of claim 44 1, wherein the key parameters established are selected from the group of price, quality, delivery, and service.

Reasons for Allowance

The following is an examiner's statement of reasons for allowance:

Applicant's amendments filed November 9, 2009 to independent method claim 1 overcame the previous 35 USC 101 rejection and amendments to claims 11, 12, and 21 overcame the previous 35 USC 112, second paragraph rejections. Applicant's reply regarding the 37 CFR 1.105 request of the June 8, 2009 action has been considered and is sufficient to meet the requirement for information. Claims 4 and 5 were previously withdrawn for being directed to a non-elected species. Generic claim 1 is allowable; therefore claims 4 and 5 which depend on claim 1 are considered and also allowable.

Upon review of the evidence at hand, it is hereby concluded that the evidence obtained and made of record, alone or in combination, neither anticipates, reasonably teaches, nor renders obvious the below noted features of applicant's invention as the noted features amount to more than a predictable use of elements in the prior art. The allowable features include "applying the respective ratings to offers received by the administrator computer from the supplier computers to adjust that offer prior to comparison of that offer with any other offer, wherein each supplier is provided with a current bid to win (CBTW) in respect of the supply contract, the CBTW calculated by said administrator computer to dynamically indicate to a supplier an offer that that particular supplier must submit to remain competitive in the auction, and wherein the CBTW for a supplier is calculated in accordance with the formula: $CBTW_{xm} = FB_{n-1} - (MD / SFx)"$.

In addition to the above, the Examiner emphasizes the interrelation of the above distinguishing elements with the remainder of each respective claim element, and further notes that it is the interrelation that truly distinguishes Applicant's invention from the evidence at hand. Moreover, none of the evidence at hand teaches or suggests the combination of features claimed, nor does there exist an appropriate rationale for further modification of the evidence at hand.

The closest non-patent literature of record, Auctions versus Negotiations (see Reference U, attached PTO-892) discloses the determination of methods and formulas to optimize sellers' profits by establishing minimum reserve prices in auctions. However, Auctions versus Negotiations does not expressly disclose at least the above noted limitation.

It is hereby asserted by the Examiner that, in light of the above and in further deliberation over all of the evidence at hand, that the claims are allowable as the evidence at hand does not anticipate the claims and does not render obvious any further modification of the references to a person of ordinary skill in the art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JASON B. DUNHAM whose telephone number is (571)272-8109. The examiner can normally be reached on M-F, 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jason B Dunham/
Primary Examiner, Art Unit 3625